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C O N F I D E N T I A L SECTION 01 OF 03 ISLAMABAD 000230

SIPDIS

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TAGS: PREL PGOV PK

SUBJECT: ZARDARI IN NO HURRY TO CEDE HIS CONSTITUTIONAL POWERS

Classified By: Anne W. Patterson for reasons 1.4 (b), (d).

¶1. (C) Summary: Nawaz Sharif has a new populist cause--pressuring President Zardari and the Pakistan People's Party (PPP) to fulfill their Charter of Democracy pledge to repeal Musharraf-era constitutional changes that transferred power from the Prime Minister to the President. Zardari inherited a variety of presidential powers conferred by Musharraf's 17th amendment. These include the power to dissolve the National Assembly and appoint governors, military service chiefs, judges and the Election Commissioner. At this point, the PPP, Nawaz, the Pakistan Muslim League (PML), and the Muttahida Quami Movement (MQM) have competing drafts of an 18th amendment that would repeal some provisions of the 17th amendment. Zardari, in no hurry to cede his powers, is slow-rolling Nawaz by seeking a "consensus" bill. All of this is playing out against a backdrop of widely publicized but, in post's view, overblown reports of tension between PM Gilani and President Zardari. End Summary

WHAT IS THE 17th AMENDMENT?

¶2. (SBU) Over the course of Pakistan's history, power has swung between the President and the Prime Minister. In 2003, then President-General Pervez Musharraf decided to expand presidential power by enacting the 17th amendment. The 17th amendment codified Musharraf's 2002 Legal Framework Order and thus retroactively blessed all of Musharraf's actions following his October 1999 military takeover.

¶3. (SBU) The 17th amendment transferred from the Prime Minister to the President several key powers, most notably, the power to dissolve the National Assembly and appoint military chiefs, justices, provincial governors and the Election Commissioner. The 17th Amendment also prohibits the same person from serving as prime minister more than twice, which was an overt political attack on former Prime Ministers Benazir Bhutto and Nawaz Sharif. The amendment did include provisions that the PPP and the Pakistan Muslim League-Nawaz (PML-N) want to retain; it created 60 National Assembly reserved seats for women and 10 reserved seats for non-Muslims, lowered the voting age to 18, and expanded the number of directly-elected seats in the National Assembly from 207 to 272.

¶4. (SBU) At this point, the PPP, PML-N and MQM all have competing versions of legislation to repeal some provisions of the 17th amendment. The constitution requires a

two-thirds majority in both the National Assembly and the Senate to amend the constitution. The PPP-led government currently does not have this majority in the Senate; however, Senate elections scheduled for March 9 (reftel) should substantially increase PPP's margin.

PAKISTAN MUSLIM LEAGUE NAWAZ (PML-N)

¶4. (SBU) On January 15, PML-N submitted its amendment bill to Leader of the House Senator Raza Rabbani for PPP review. PML-N's revisions echo the PPP/PML-N pledge under the Charter of Democracy signed in 2006. It would specifically remove the president's power to make key appointments and the power to dissolve the National Assembly. According to press reports, the PML-N version would repeal all of the 17th Amendment except for its provisions for a joint Muslim/non-Muslim electorate, lowering the voting age, the increase in provincial assembly seats and women's reserved seats in parliament, and the increase in directly-elected seats.

¶5. (C) In a January 13 meeting with A/DCM, PML-N's Leader of the Opposition Chaudhry Nisar Ali Khan explained that his party needed the support of all other political parties for the proposed 18th amendment to pass. Nisar made it clear he expected the PPP would act as a bottleneck to any amendments; however, the PML-N was ready to compromise on which powers would be taken away from the president. Nisar said that Zardari "seems to like the power he has acquired," but he cautioned that the longer that Zardari waits to pass a new amendment, the more popular opinion will be against him,

ISLAMABAD 00000230 002 OF 003

forcing him to forfeit more powers to the parliament. On January 27, Nawaz Sharif again publicly called for Zardari to abide by the Charter of Democracy and cede power back to the prime minister.

MUTTAHIDA QUAMI MOVEMENT (MQM)

¶6. (C) MQM leaders Dr. Farooq Sattar, Haider Ali Rizvi, and Senator Babar Ghauri met with the Ambassador and A/DCM on January 13 to present their own version of an 18th Amendment. The MQM bill focuses on expanding provincial autonomy. It moves most powers to the provinces, except for defense, foreign affairs, and currency, which are reserved for the federal government. Sattar criticized the decades of shifting power between the President and Prime Minister. The MQM bill, which is similar to one they submitted during Musharraf's government, allows the provinces to create restrictions on imports from other provinces, repeals Pakistan's version of the federal supremacy clause, and gives provinces more control over their natural resources. However, with MQM receiving two additional federal ministries on January 26 from the PPP-led government, the party is likely now to follow the PPP on amending the constitution.

PAKISTAN MUSLIM LEAGUE-QUAID (PML)

¶7. (C) The PML has combined its previous two versions of an 18th Amendment bill to present one united bill that removes the President's power to dismiss parliament and also the power to appoint judges, governors, and military chiefs. How the PML votes on any constitutional amendment will depend on whether it can be convinced to join either the PPP government in Punjab or at the center.

PAKISTAN PEOPLES PARTY (PPP)

¶8. (SBU) In his inaugural speech to the parliament, Zardari indicated he would support repealing article 58.2(b) --the power to dissolve the assembly-- and called upon parliament to "revisit" the 17th amendment. In June, the PPP drafted

but never formally introduced an enormous package with over 70 proposed constitutional changes. It would transfer from the President to the Prime Minister the power to declare war, order use of nuclear weapons and appoint the Chief Election Commissioner. The package, introduced while Musharraf was still president, did away with the infamous 58.2(b). It also proposed changes to how the judiciary would be selected. The PPP package also would leave the reserved seats for women and minorities, adding five minority seats to the Senate as well.

On November 28, under pressure from PML-N to reverse some Musharraf-era presidential powers, Zardari abolished the presidential National Security Council.

¶9. (C) On January 15, PPP leaders Rabbani and Parliamentary Affairs Minister Babar Awan held a joint press conference with PML-N leaders to accept the PML-N draft. Awan said that the PPP would work to build a "consensus" bill. In a January 21 meeting with the A/DCM, Rabbani confirmed the PPP's commitment to undoing "some of" Musharraf's changes to the constitution. Rabbani called PML-N's constitutional campaign a political ploy to make the PPP government look weak, and he emphasized that no amendment could remove all power from the President. He emphasized that a consensus bill would also require some attention to provincial autonomy and to changing the name of the Northwest Frontier Province (NWFP), to get all the smaller political parties on board. Rabbani did not think that Senate elections would change the outcome of the amendment process; rather he appeared fairly confident that the PPP would be able to build a coalition to support its version of the bill.

GILANI-ZARDARI RIVALRY?

(C) This debate over constitutional powers has take place against a backdrop of reports about a growing rivalry between PM Gilani and President Zardari. Gilani is chafing a bit over Zardari's clear role as power-broker in Pakistan, and

ISLAMABAD 00000230 003 OF 003

Gilani has expressed his pique by firing some Zardari-appointed advisors in the Prime Minister's office. The most public dismissal occurred on January 7, when Gilani summarily fired National Security Advisor Durrani, primarily because Durrani released information about the Mumbai attackers without checking with Gilani. However, Gilani is smart enough to know that he cannot really challenge the man who appointed him. For his part, Zardari is not worried in any way about a challenge from Gilani. In post's view, the press reports about problems between the two are greatly exaggerated.

¶10. (C) Comment: Lacking the votes to challenge the PPP in parliament, Nawaz Sharif is taking the high moral ground by challenging Zardari and the PPP to fulfill their campaign promises. Suggestions that Musharraf-era laws be overturned still has resonance with the street, and Nawaz is milking public opinion to his advantage. Longer-term, Zardari may be forced to give up at least some presidential powers, so the "consensus" 18th amendment may include a power-sharing arrangement between the President and Prime Minister, with some provincial concessions. For now, however, Zardari is not eager to cede any powers, and he is consolidating the PPP coalition's hold over the National Assembly. End Comment.

PATTERSON